

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:07CR168
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
KELLY DILL,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report ("PSR") in this case. The parties have not objected to the PSR.¹ See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The plea agreement includes a stipulation that the Defendant receive a 2-level downward departure for a minor role in the offense. (Filing No. 33, ¶ 4(a).) However, ¶ 55 of the PSR does not include a role reduction. The government advocated for the reduction as reflected in the Addendum to the PSR. Therefore, the plea agreement will be honored.

IT IS ORDERED:

1. The Court's tentative findings are that ¶ 55 should be changed to reflect the stipulation in ¶ 4(a) of the plea agreement regarding the 2-level role reduction;
2. Otherwise, the parties are notified that my tentative findings are that the PSR is correct in all respects;

¹The government initially objected to the probation officer, as reflected in the Addendum to the PSR. However, objections were not filed pursuant to ¶ 6 of the Order on Sentencing Schedule.

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 13th day of November, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge